

GREATER NEWARK URBAN COALITION, INC.

SPECIAL COMMITTEE REPORT

March 27, 1975

I Background

At its February meeting the Board of Trustees unanimously took the following action:

That the Board authorize the President of GNUC to convene a Special Committee to examine the Presentment concerning the 1974 Labor Day Weekend and report to the Board for its consideration any recommended actions the Committee may view as helpful interventions on the part of GNUC.

The Special Committee to date includes five members of the Board of Trustees (P. Gibson, G. Henningburg, O. Lofton, A. Roman, R. Velazquez) plus coopted members A. Arce, Seton Hall Law School student; Attorney J. Cundari, North Ward Education and Cultural Center; A. Frick, Prudential Insurance Co.; Dean J. Irving, Seton Hall Law School; Prof. J. Rivera, Rutgers Law School; R. Rivera, Puerto Rican Congress; C. Roche, Puerto Rican Legal Committee, Inc, and Rev. A. Thomas, Metropolitan Ecumenical Ministry.

The report which follows reflects the judgment of the Special Committee which has met on several occasions at the offices of Seton Hall Dean John F.X. Irving and Attorney Oliver Lofton.

II Findings

The Presentment (in the matter of the investigation of the civil disturbance arising out of the Puerto Rican festival in Branch Brook Park) is replete with citations of Newark police malpractice and misconduct, including

"unjustified shootings"--p. 5

failure to report firing of weapons--pp. 5, 13

"police excesses"--p. 7

"police violence"--p. 7

no police reports on critical incidents--p. 9

Department's "utter failure to enforce its own regulations with respect to use of firearms"--p. 13

"conspiracy of silence participated in not only by the officers themselves but by their superiors"--p. 14

"punitive attacks" against citizens and "excessive use of police force"--p. 15

"criminal acts" causing the death of two persons--p. 17

### III Recommendations

You murder two of our people and you murder all of us.

-Dean John F.X. Irving, reflecting upon the grand jury findings

The Special Committee considers that the GNUC, in consideration of the unacceptable "state of the art" of police practice in Newark as revealed by the grand jury presentment, can serve a most useful public purpose by supporting the development of the proposal (for the creation of a Newark Citizens' Crime Commission) as advanced by Seton Hall Law School Dean John F.X. Irving, at the March 19th Chamber of Commerce Luncheon in Newark.

Probably the crux of the police problem is that it is unreasonable to expect men who inhabit a totalitarian world of their own to police an outside world in a democratic fashion. The only solution is to rip the cocoon from the police system and expose it to the fresh air of informed public opinion...Shattering as the idea may be to the police mystique, a firm civilian hand on the police shoulder is one of our best guarantees of effective and ethical law enforcement in a democratic society.

-William Turner, The Police Establishment, 1968

The National Advisory Commission on Civil Disorders in its 1968 Report offers discerning comment (pp. 310-311) in support of the Committee's recommendations.

. In the context of civil disorder, appearances and reality are of an almost equal importance in the handling of citizen complaints against the police. It is not enough that there are adequate machinery and procedures for handling complaints; it is also necessary that citizens believe these procedures are adequate. Some citizens will never trust an agency against which they have a grievance.

. We believe that an internal review board (in which the Police Department itself receives and acts on complaints) regardless of its confidence, or protect the police against unfounded charges. We also believe, as did the Crime Commission, that police should not be the only municipal agency subject to outside scrutiny and review. Incompetence and mistreatment by any public servant should be equally subject to review by an independent agency.

. Our Commission believes that Police Departments should be subject to external review.

The National Advisory Commission delineated (pp. 292, 310-312) what it regarded as basic elements of an effective review system, namely,

- . independence
- . adequate staff and funding

- . comprehensive coverage of grievances against public agencies and authorities
- . power to receive complaints, hold hearings, subpoena witnesses, make public recommendations for remedial action to local authorities and, in cases involving violation of the law, bring suit
- . accessibility
- . grievants' participation in the grievance process.

Dean Irving supports the foregoing as setting out base line considerations for a semi autonomous City Citizens' Crime Commission which can aggressively pursue allegations of official misconduct in the arena of the administration of justice.

Instructive also is the 1968 Report for Action of the Governor's Select Commission on Civil Disorders (N.J.) which recommended (p. 164) that "A Board of Police Commissioners, made up of outstanding citizens representing the total Newark community should be named by the Mayor to receive and review all citizens complaints of police misconduct." The Report continues,

A board should operate outside the structure of the Police Department, be staffed by its own investigators and equipped with subpoena powers. It should have the power to recommend disciplinary action to the Police Director and to publicize its findings. The Police Director in turn should be responsible for reporting back to the board within 30 days on what action he has taken.

Note that the present proposal offered by Dean Irving calls for a Crime Commission whose focus would go beyond police practice alone and relate as a "watchdog for the public trust" to all crime-fighting instrumentalities in the city--the essential direction of the National Advisory Commission's recommendation, above.

The attachments highlight in general the scope of the Newark Citizens' Crime Commission as projected by Dean Irving.

The Special Committee recommends that the GNUC Trustees

- 1) support in principle the proposal advanced by Dean John F.X. Irving for the creation of a Newark Citizens' Crime Commission as a strategic step towards upgrading the system of justice in the greater Newark area.
- 2) take note of the Commission's promise for protecting the civil liberties of both municipal servants and the public, and for evaluating criminal justice instrumentalities' practice and policy.
- 3) instruct the GNUC attorney, in consultation with Dean Irving, to draft a proposed ordinance for the creation of a Newark Citizens' Crime Commission to be submitted to the Mayor and City Corporation Council for their review.
- 4) agree to seek public support for the Newark Citizens' Crime Commission proposal.

I therefore raise with you the hue and cry for citizens to come forward before crime and civil disorder overwhelms us and I call for the creation of a Newark Crime Commission with investigatory staff and armed with subpoena power. Similar to the State Commission of Investigation, the Newark Crime Commission will root out those corroding crimes and public corruption that paralyze or discredit our community.

It will also identify any waste or misuse of federal funds that were intended to accelerate the war on crime or similar federal or state funds for local governmental services.

I have met with spokesmen of the United States Department of Justice and have assurances of federal support in the form of technical assistance - and perhaps more - for the creation of such a crime commission. As one federal employee said, "If any city needs a crime commission, Newark certainly does". Funding is available, I believe, within the 800 million dollars appropriated by the Congress each year for the war on crime.

Other sources of funding are possible within this state and city.

You'll be interested to know that 21 major cities have such crime commissions. They function in Miami, Atlanta, New Orleans, Dallas, Phoenix, Philadelphia, as well as in Chicago.

The Newark Citizen Crime Commission will fill the following needs:

First, it will receive complaints from citizens about crime in general or crime in which public officials may be implicated. The Commission will respect the confidence of such complaints. There is no private, independent agency at the local level that can handle and investigate such complaints;

Second, it will receive requests from government itself to investigate allegations of misdeeds by public officials, if any allegations arise. Very few people believe that government will seriously investigate charges against itself;

Third, on its own initiative, the Commission will look into private and organized crime and be the watchdog for the public trust. Civil disorders and drug distribution are other areas to pursue. With Newark recently having the fourth highest drug arrest rate in the nation, the Commission will ask "Who are the pushers?" "Who are the protectors?"

The first priority however should be the deaths by Newark Policemen of David Perez and Fernando Cordova who were participants or observers of the tragic Puerto Rican Festival. The Grand Jury, as if speaking to the Crime Commission said:

"This Grand Jury finally concludes that the deaths of David Perez and Fernando Cordova were the result of criminal acts by members of the Newark Police Department not known to the Grand Jury. All of the evidence heard by this Grand Jury supports this conclusion. The total absence of any exculpatory evidence from the Newark Police Department either denying responsibility or justifying the deaths mandates it.

This Grand Jury recommends that the investigation of these two deaths remain open in the hope that additional civilian or police witnesses will come forward to give information to the authorities."

Ladies and Gentlemen. This is our Watergate. When two people are criminally killed by police, all of us die a little. When the laws are broken by law enforcement officers there is a clear threat to the fabric of our society. Cordova was carted away by the police and dumped in an abandoned area according to testimony before the Grand Jury. The shell casing in evidence has been destroyed. The conspiracy of silence by the police contains a frightening message for free men.

Finally, the Crime Commission should have the same statutory authority at the local level that the S.C.I. does to investigate any matter concerning "the public peace, public safety and public justice" in this troubled city.

Let us then create a Citizen Crime Commission with the initiative of the Mayor and City Council. But let's do it alone as other cities have done if we have to. And as we see the impact that the Commission will have on the public and police morale, we will find, I am sure, that we have cleared a new beachhead for the resurgence of Newark.

## SETON LAW DEAN CITES KILLINGS IN DISORDERS

# Citizen crime commission urged for Newark

By JAMES WARREN

The dean of the Seton Hall Law School yesterday called for the creation of a Newark Crime Commission, composed entirely of citizens, armed with subpoena power and intent on rooting out "those corroding crimes and public corruption that paralyze or discredit our community."

Speaking before the Newark Chamber of Commerce, John F.X. Irving charged that "few people believe that government will seriously investigate charges against itself" and proposed the selection of a cross-section of people "who have the confidence of the community."

The group's first priority, he said, would be an investigation into the shooting deaths of

two Hispanics allegedly killed by police during street disturbances last Labor Day weekend — shootings which a grand jury charged have been masked by a massive police cover-up.

Calling the slayings of David Perez and Fernando Cordova "our Watergate," Irving said "the conspiracy of silence by the police contains a frightening message for free men."

In stressing the need for a citizen-oriented commission devoid of elected officials, Irving was quick to add he was not impugning the integrity or reputation of elected officials.

"In fact," he said, "I believe that a local citizen commission will be a great asset to

the mayor, the city council and to the police director."

According to Irving, the commission would:

- Receive complaints from citizens about crime in general or crime in which public officials may be implicated. All such accusations would be treated confidentially.

- Investigate allegations brought by government of misdeeds by public officials.

- Look into private and organized crime on its own, thus serving as a "watchdog for the public trust."

Irving said a "quasi-military esprit de corps" would hamper any potential police

department investigations of itself. "You're not supposed to 'rat' on your brother," he noted.

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Newark Police Director Hubert Williams, attending a law enforcement seminar in California, could not be reached for comment.

Williams previously appointed a committee of eight policemen to investigate police conduct during the Labor Day disorders. But a coalition of Hispanic leaders has charged the committee will only serve to produce a "traditional whitewash."

Mayor Kenneth A. Gibson and City Council President Earl Harris also were unavailable, but spokesmen for the two said they would be more

than happy to meet with Irving to discuss his proposal.

Irving would not disclose whether that same Hispanic coalition, angered over Williams' investigation, had spoken with him. He admitted, however, that both groups and individuals from the Hispanic community have come to him in confidence and expressed approval of the proposal.

Questioned about how such a commission would be granted subpoena power, he offered two possibilities.

"State law indicates that the governing body of a municipality has inherent subpoena power. We could ask the city's corporation counsel to determine whether this power could be delegated to such a commission," he said.

"If that doesn't work," he continued, "we might ask the Legislature to enact a law allowing all municipalities to grant such power."

Irving said he has discussed the idea of a crime commission — to be modeled after one of 21 such groups operating across the country — with officials of the U.S. Department of Justice.

Irving said he received assurances of technical assistance "and perhaps more," and he added that funding might be available from \$200 million in anti-crime monies appropriated by Congress.

"We are losing the war on crime because the only side organized is crime," Irving asserted.